



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Development Impact Mitigation Fees at 225 North Guild Avenue
(APN 049-040-61)

MEETING DATE: October 21, 1992

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That **no** action **be** taken, i.e., no change in existing ordinance.

BACKGROUND INFORMATION: The City received the attached letter (Exhibit A) from Mr. Cecil Dillon representing the property owner, Mr. John Teresi. Mr. Dillon asked to be placed on the Council agenda to discuss increased Development Impact Mitigation fees on the vacant 5-acre parcel located at the southwest corner of Victor Road (Highway 12) and Guild Avenue (see attached map, Exhibit B). Staff previously discussed with Mr. Dillon the fee issues involved with this parcel and indicated that Council action would be needed to **accommodate** his request. In Short, he feels this parcel should **not** be subject to the impact Fees adopted in 1991. Therefore, staff has prepared the following background material on this parcel and its relationship to the Development impact Mitigation fees.

The subject parcel is one of the remaining portions of the Teresi property originally subdivided with a parcel map in 1985 as part of the development of the Dart Container project. Two subsequent parcel maps for the west side of Guild Avenue were filed in 1985 and 1991. The most recent map created the subject parcel. All were signed by John and Varena Teresi as owners. Public improvements were installed in two **phases** with property owner, developer, and City participation.

The latest map, filed on September 26, 1991, contained the note:

"Requirements of the **Lodi** Municipal Code for the dedication of easements, payment of fees **and** installation of off-site improvements, utilities and well and septic tank abandonments per San Joaquin County permits have not been met at this time and **must** be met prior to development or issuance of a building permit or when requested by the City."

Prior to that time, the City had confirmed, in a letter to Dillon Engineering (Exhibit C), that storm drain fees could be deferred until issuance of a building permit. **It** has been **common** practice for industrial and commercial parcel maps to defer fees and improvements until the time of actual development.

During this time frame, as part of the General Plan update, the City discussed and adopted a new fee schedule for development impact mitigation. The schedule updated the commercial and industrial storm drainage fee from \$5,700 per acre to \$10,520 per

APPROVED _____


THOMAS A. PETERSON



recycled paper

October 21, 1992

Page 2

acre and added an additional 519,300 per acre in Water, **Sewer**, Street, Police, Fire, Parks and Recreation, and General City Facilities Impact Mitigation fees for heavy industrial projects.

At the time **of** adoption in late 1991, the fee ordinance applied the fees to any parcel which had not obtained a building permit. Prior to the effective date of the ordinance, additional Council meetings and hearings were held regarding application of the fees to parcels which had started the development process but had not taken out a building permit.

At the special Council meeting held October 3, 1991, staff presented four alternate policies on Impact fees and existing parcels. (The minutes **are** attached as Exhibit D.) After **much** discussion, the Council adopted Alternate 3. This alternate exempted parcels from additional Impact fees provided they have development approvals (short of a building permit) **and** have paid current Development Impact Mitigation fees (which was the storm drainage fee).

Since the owner had requested and received approval for deferral of fees, staff could not approve Mr. Dillon's request to apply the old fees to this parcel should **the** owner wish to **pay** them **now**. Mr. Dillon noted that the owner would have paid the fees prior to the **new** fee ordinance had he been aware of the increase. Staff responded that Mr. Teresi had been sent a letter regarding the project on his parcel **immediately** south of the subject parcel (Exhibit E). Apparently the responsibility for payment was in dispute. The City Attorney was contacted by the developers and **another** letter (Exhibit F) was sent to them and Mr. Teresi which noted the November 5, 1991 deadline. The developers of the property paid them for the south parcel before the November 5 deadline in order to avoid the increase. **The point is, Mr. Teresi was** made aware of the fee increase prior to the effective date. Accommodating Mr. Teresi's request **now** would require a change in the fee ordinance.

It appears there are only two alternative actions for the Council to take:

1. Confirm the existing ordinance which means the subject 5-acre parce should pay the Impact Fees upon development, or
2. Give staff policy direction on how Council wants ordinance changed.

FUNDING: **To** be determined.


Jack D. Ronsko
Public Works Director

Prepared by Richard C. Prima, Jr., Assistant City Engineer

JLR/RCP/lm

Attachments

cc: Mr. John Teresi
Mr. Cecil Dillon

DILLON & MURPHY
CONSULTING CIVIL ENGINEERS

1820 W. Kettleman Lane, Suite E, Lodi, California 95242
P O Box 2180, Lodi, California 95241
(209) 334-6613 • Fax (209) 334-0723

September 30, 1992



Mrs. Alice Reimche
City Clerk
city of Lodi
221 West Pine Street
Lodi, CA 95240

Dear Alice:

On behalf of Mr. John Teresi, I wish to appear at a formal City Council meeting and discuss the increased development impact mitigation fees for APN 049-040-61. This is a five acre vacant parcel located at the southwest corner of Victor Road and Guild Avenue in the Teresi Industrial park.

I would appreciate being placed on the earliest possible City Council agenda. Thank you.

Sincerely,

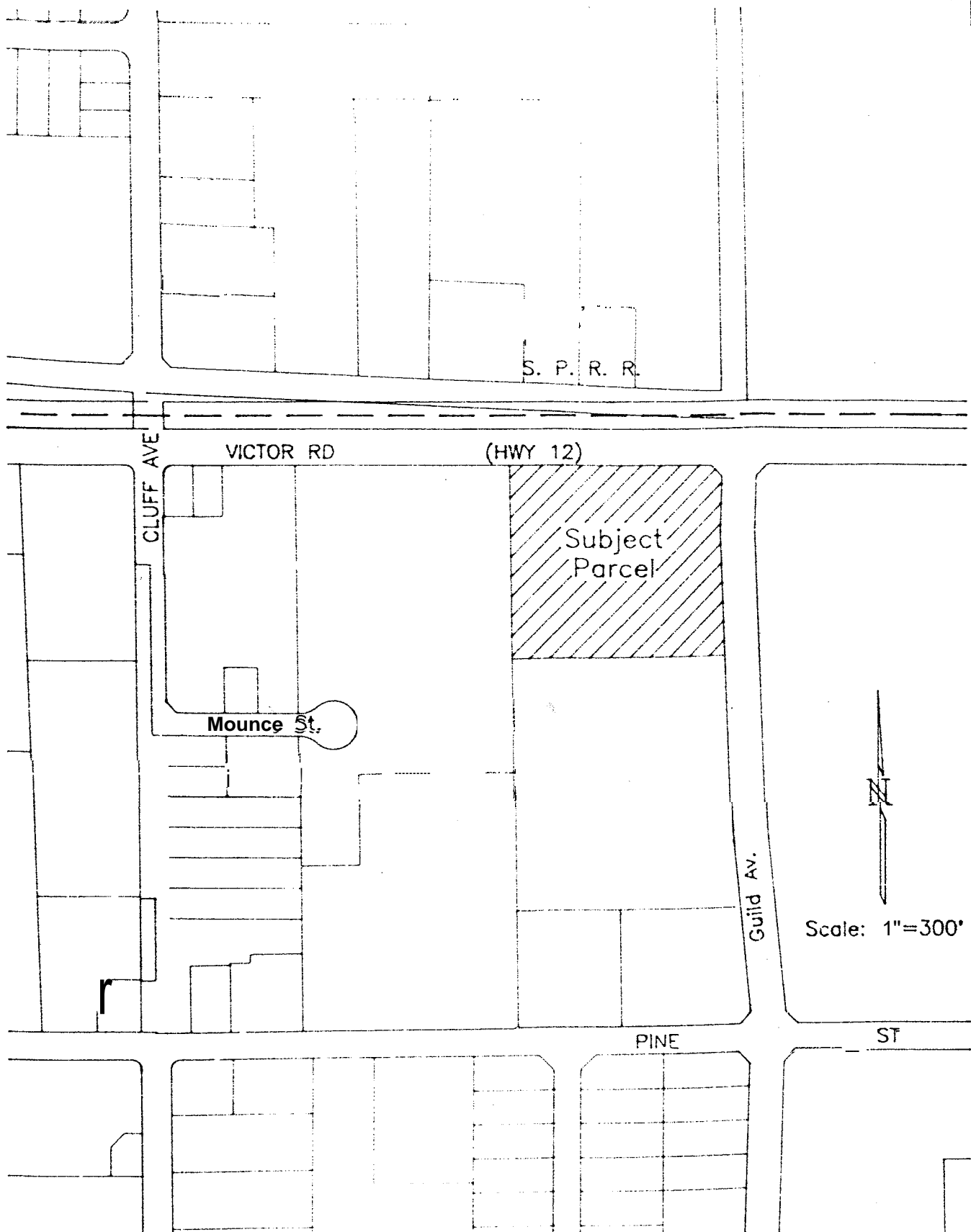
A handwritten signature in cursive script, appearing to read "Cecil Dillon".

Cecil Dillon

CD;db

cc: Mr. John Teresi

Exhibit B



CITY COUNCIL

JOHN R. (Randy) SLEETER, Mayor

DAVID M. HENCHMAN
Mayor Pro Tempore

EVELYN M. OLSON

JAMES W. PINKERTON, Jr.

FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET

CALL BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 334-5634

TELECOPIER (209) 333-6795

October 25, 1990

Exhibit C

THOMAS A. PETERSON

City Manager

ALICE M. REIMCHE

City Clerk

BOB McNATT

City Attorney

RECEIVED

OCT 29 1990

DILLON ENGINEERING

Dillon Engineering
P.O. Box 2180
Lodi, CA 95241-2180

SUBJECT: Teresi Industrial Park Street Improvements

The City has approved deferral of the **storm** drainage fee shown on Invoice #E-913 until the **building** permits are issued. The property owner will **be** billed **the** storm drainage fee in effect at the time the permit **is** issued.

Richard C. Prim Jr.

Richard C. Prim Jr.
Assistant City Engineer

RCP/SB/mt

cc: Teresi Trucking
Tel Molfino
Finance Department

SPECIAL MEETING
LODI CITY COUNCIL
CARNEGIE FORUM
305 WEST PINE STREET
LODI, CALIFORNIA
THURSDAY, OCTOBER 3, 1991
7:00 A.M.

REVIEW DEVELOPMENT
IMPACT FEE APPLICATION

CC-6 Pursuant to State statute the following notice was mailed
CC-46 under Declaration of Mailing to the following persons at.
CC-56 least 24 hours in advance of the subject meeting.

NOTICE OF SPECIAL MEETING
OF THE LODI CITY COUNCIL

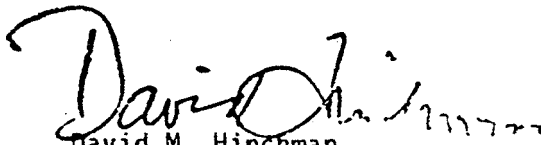
TO THE MEMBERS OF THE CITY COUNCIL OF THE CITY OF LODI, CALIFORNIA:


NOTICE IS HEREBY GIVEN that a Special Meeting of the City Council of the City of Lodi, California is hereby called to be held at approximately 7:00 a.m. or as soon thereafter as is possible on Thursday, October 3, 1991 in the Carnegie Forum, 305 West Pine Street, Lodi.

Said Special Meeting shall be for the following purpose:

1. Review development impact fee application

Dated: September 30, 1991


David M. Hinchman
Mayor


Alice M. Reimche
City Clerk

NOTICE OF SPECIAL COUNCIL MEETING
MAILING LIST

EXHIBIT "B"

Phillip A. Pennino
1502 Keagle Way
Lodi, CA 95242

John R. Snider
2328 Brittany Lane
Lodi, CA 95240

David M. Hinchman
1131 South Pleasant Avenue
Lodi, CA 95240

James W. Pinkerton
916 West Turner Road
Lodi, CA 95240

Jack A. Sieglock
1702 Timberlake Circle
Lodi, CA 95242

KCVK Radio
P. O. Box 600
Lodi, CA 95241

KSTN Radio
3171 Ralph Avenue
Stockton, CA 95206

City Clerk
City of Lodi

Community Development Director
City of Lodi

Tamara Adamek
Lodi News Sentinel
P.O. Box 1360
Lodi, CA 95240

King Videocable
Attn: Ms. Deanna Enright
1521 South Stockton Street
Lodi, CA 95240

Stockton Record
Attention: Sarah Williams
101 West Locust Street
Suite 4
Lodi, CA 95240

Lodi Magazine
P. O. Box 648
Lodi, CA 95241

City Manager
City of Lodi

Assistant City Manager
City of Lodi

City Attorney
City of Lodi

Public Works Director
City of Lodi

The meeting was called to order by Mayor David M. Hinchman
at 7:00 a.m.

Roll was recorded by the City Clerk as follows:

Present: Council Members - Pennino, Pinkerton, Sieglock
and Hinchman (Mayor) (Mayor
Hinchman was briefly absent
during the course of the
meeting).

Absent: Council Members - Snider

Also Present: City Manager Peterson, Community Development Director Schroeder, Public Works Director Ronsko, Assistant City Engineer Prima, City Attorney McNatt, and City Clerk Reimche

The topic of discussion, "Review Development Impact Mitigation Fee Application" was introduced by Assistant City Engineer Richard Prima who advised the City Council that since the adoption of the Development Impact Mitigation Fee Ordinance on September 4 (which will go into effect November 4), there have been some questions raised as to its applicability to vacant lots within the City.

As it pertains to this issue, the ordinance states:

15.64.020 Definitions

"D. "Development" or "Project" means any of the following:

1. For water, sewer and storm drainage impact fees: any new connection to the City System or increase in service demand.
2. For streets impact fees: any project that increases traffic.
3. For police, fire, parks and recreation and general City facilities impact fees: any project generating new or increased service demand."

15.64.040 Payment of Fees

"A. The property owner of any development project causing impacts to public facilities shall pay the appropriate Development Mitigation Fee as provided in this Chapter . . ."

"D. If a final subdivision map has been issued before the effective date of this Ordinance, then the fees shall be paid before the issuance of a building permit or grading permit, whichever comes first."

(In the draft ordinance, subsection "D" was lettered "C"; the change was due to the Council's request to split payment for subdivision projects at final map and acceptance of improvements.)

"SECTION 4. Effective Date. This ordinance takes effect 60 days after its adoption. For purposes of this Chapter, building permit applications accepted and deemed completed prior to the effective date shall not be subject to the Ordinance."

The language is clear that vacant or partially vacant property in the City will be subject to the fees, whether it has frontage improvements, a map or other approval short of a completed building permit application.

Concerns **have** been raised about charging property already within the City limits. This property can be separated into many categories of development stage(s) including any combination of the following:

1. vacant (no building permit)
2. **partially** vacant (building permit on a portion of the parcel)
3. with or without frontage improvements
4. created with a final subdivision map or not
5. storm drain fees (previous impact fee) paid or not
6. nonconforming uses
7. conforming uses subject to obtaining a use permit
- a. proposed uses requiring a rezoning
9. proposed project requiring a subdivision map
10. proposed project requiring some public improvement

Thus, without including all, it is more difficult to write and explain an ordinance that differentiates among them. If Council wishes to do so, staff will need additional direction. **Also**, the City has three recent annexations done prior to completion of the General Plan for which the property owners have signed agreements stating they will pay the fees. Staff assumes any development definition or new policy will require these parcels to pay the new fees.

Due to the Council's concern over this issue, staff has prepared an outline of the basic concepts and guiding policies of the adopted ordinance as it pertains to the fee calculations on Exhibit A shown below.

CITY OF LODI DEVELOPMENT IMPACT MITIGATION FEES

Basic Concepts & Guiding Policies of Adopted Ordinance

1. If there is new service demand (impact), the project pays its fair share (fee).
2. Payment at Final Map vs. at Building Permit or other time is a matter of when the fee is paid, not that it is owed.
3. Costs would be spread equally throughout the City wherever reasonable.
4. The new fees are not paying for normal frontage improvements; whether they are in place or not does change the impact on the services for which the fees are being charged.
5. Just because capacity improvements are built and paid for doesn't mean that subsequent buildings (service demand which uses that capacity) should not pay the fee; they still need to pay their fair share.
6. Existing service demands and levels of service were based on present population and occupancies.
7. All projects reasonably attributable to growth (increased service demand) are included.

Pro

Present ordinance and policies adequate.

Treats all property equally.

Consistent with past implementation of new development fees (Storm Drainage, Sewer Connection).

Con

Changes the "rules" on projects previously approved but not completed prior to the ordinance. [Although the "rules" have been years in the making).

Exhibits B, C, D and E (shown below) describe four alternate policies that address the concerns raised. However, some have serious implications for the entire program. The adopted ordinance will need minor to major revisions depending on Council direction and the fees may

need to be recalculated. These will be reviewed in more detail at the Council meeting.

ALTERNATE POLICY I

For all land within the City that is zoned for development, the City is responsible for the service impacts of that development.

Pro

Fewer projects on which to calculate fees. (Fee would only apply to projects needing rezoning and not necessarily to lot splits or other approvals.)

Will promote "infill". (Those owners of property inside the City limits will have a financial advantage over newly annexed property.)

Con

Significant impact on fee calculations. (Acreage involved is approx, 7% of total)

Serious problem with equity of new fee program if not redone (fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations}, or City could pay the fee for those projects.

Contrary to past practices. (Sewer connection fee for example)

Would exempt vacant parcels within the City from existing Storm Drain Fee, also contrary to past practice.

Will be difficult to explain "who pays" and "who doesn't" to builders. (Project with proper zoning but filing a map doesn't pay, but one needing a rezoning pays.)

ALTERNATE POLICY 2

Service impacts of project utilizing developed "infill" land are the responsibility of the City. For purposes of this Policy, developed means the parcel:

- o has been legally subdivided or created, and;
- o has off-site improvements normally required as part of development, and;
- o all the necessary approvals and permits to build except a building permit, lot line adjustment or parcel merger.

(definition will need "fine tuning")

Pro

Fewer projects on which to calculate fees, although more than Alternate Policy 1. (Fee would apply to projects needing rezoning, lot splits or other approvals. Some question on use permits, will need additional discussion).

Will promote "infill". (Those owners of developed property inside the City limits will have a financial advantage over newly developed property.)

Con

Less impact on fee calculations than Alternate Policy 1. (Acreage involved is between 4-1/2 and 7% of total-)

Possible problem with equity of new fee program if not redone (fee could go up, down, or stay the same due to level of service definition and "existing deficiency" calculations), or City could pay the fee for those projects.

Contrary to past practices. (Sewer connection fee for example)

Would exempt some vacant parcels within the City from existing Storm Drain Fee, also contrary to past practice.

May be difficult to explain "who pays" and "who doesn't" to builders. (Who pays depends on definition of "developed".)

ALTERNATE POLICY 3

Previous development projects that have received the appropriate approvals prior to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (Master Storm Drainage Fee) have the right to develop as approved without the imposition of new development impact mitigation fees.

Pro

Less impact on fee calculations than Alternate Policies 1 or 2. (Acreage involved is approx. 4-1/25 of total)

Will promote "infill". (Those owners of property inside the City limits which have paid SD fees will have a financial advantage over property that has not paid).

Con

Equity concern, possible legal challenge. (What does previous payment of Storm Drain Fee have to do with impact on Water, Police, etc?)

ALTERNATE POLICY 4

The most protection provided by State law (outside of a special development agreement) that a project can have from subsequent changes in zoning, development requirements or imposition of new fees is a "vesting" tentative map. That protection lasts for two years after map filing. Therefore parcels which have filed a final subdivision or parcel map and have received the appropriate approvals prior to obtaining a building permit as evidenced by payment of the then current development impact mitigation fee (Master Storm Drainage Fee) have the right to develop as approved without the imposition of new development impact mitigation fees for a period of two years. (In effect this grants "vesting" map status to these projects even though they did not ask for it.)

Pro

Negligible impact on fee calculations.

Could be implemented with minor change in ordinance, immediately if made an urgency ordinance,

Con

Some additional administrative effort to determine various dates.

Same equity concern as Alternate Policy 3 but to a much lesser extent.

Alternate Policy 3 describes the protection provided new development by a "vesting" map. This type of map was added to the City Code in 1986 as required by state law, Normally, and as was the case in Lodi, projects with an approved tentative map were protected from changes in development policies until the final map was filed. The vesting statutes fix and extend this protection for two years following final map filing. To obtain these rights, the developer must add the word "vesting" to the tentative map. Very few have done so.

Staff recommended that the ordinance be left as adopted.

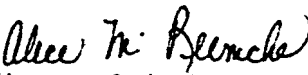
The following persons addressed the City Council regarding the matter and indicated that they would prefer Alternate 3.

- a) Steve Pechin, 323 West Elm Street, Lodi, California;
- b) John Tetz, 815 West Tilden Drive, Lodi, California;
- c) John Giannoni, Jr., 1420 South Mills Avenue, Lodi, California; and
- d) Ben Schaffer, 207 River Oaks Drive, Lodi, California.

Following additional discussion with questions being directed to staff and those giving testimony, on motion of Mayor Hinchman, Pennino. second, the City Council set a public hearing for October 16, 1991 at 7:30 p.m. to consider adopting as an urgency ordinance an amendment to Lodi's Development Fee Ordinance to modify the definition of projects subject to new development fees.

There being no other business to come before the City Council, the meeting was adjourned at approximately 8:45 p.m.

Attest:


Alice M. Reimche
City Clerk

CITY COUNCIL

DAVID M. HINCHMAN, Mayor
JAMES W. PINKERTON, Jr.
Mayor Pro Tempore
PHILLIP A. PENNING
JACK A. SIEGLOCK
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P O BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634
FAX (209) 333-6795

October 14, 1991

Exhibit E

THOMAS A. PETERSON
City Manager
ALICE M. REIMCHE
City Clerk
BOB McNATT
City Attorney

Mr. John Teresi
P.O. Box 1270
Lodi, CA 95241

Subject: Construction Application #3980
111 N. Guild Avenue, Lodi, California

At the request of Mr. Jim Versepunt of Schaffer, Suess and Boyd Realtors, we are enclosing Bill #E-1003 covering the storm drain fees for the above parcel. This bill is valid until November 4, 1991. If not paid by that date, the storm drain fees will be subject to revision to reflect the amount recently adopted as part of the City's Development Impact Mitigation Fees.

In addition, the storm drain fees must be paid prior to the issuance of a building permit for this project.

Should you have any questions, contact Sharon Welch, Assistant Civil Engineer, or me.



for Richard C. Prima Jr.
Assistant City Engineer

RCP/SAW/lw

Enclosure

cc: Building Division
Lodi Shield Partnership

LTERESI/TXTW.01L

CITY COUNCIL

DAVID M. HINCHMAN, Mayor
JAMES W. PINKERTON, Jr.
Mayor Pro Tempore
PHILLIP A. PENNINO
JACK A. SIEGLOCK
JOHN R. (Randy) SNIDER

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 334-5634
FAX (209) 333-6795

Exhibit F

A. PETERSON
City Manager

ALICE M. REIMCHE
City Clerk

BOB McNATT
City Attorney

October 22, 1991

Jose Alva, Esquire
Seligman and Willett, Inc.,
7510 Shoreline Drive, Suite A1
Stockton, CA 95219

Subject: Construction Application 3980 (111 N. Guild Avenue, Lodi)

Dear Mr. Alva:

As we discussed in our telephone conversation of October 22, 1991, this letter is a follow up on Sharon Welch's communication of October 14, 1991. Apparently, there is a dispute among the principals on the above-captioned project over who is responsible for payment of the storm drain fees. The City takes no position as to who may be obligated for such fees, and sent the bill to Mr. Teresi only because we understood that was the developers' desire,

However, no building permits can be issued until these fees are paid. I should also remind you that effective November 5, 1991, the City's new fee structure will be in place, and the cost of these permits may substantially increase.

Sincerely yours,



BOB U. McNATT
City Attorney

BM:vc

cc: Assistant City Engineer
Assistant Civil Engineer —"—
Lodi Shield Partnership, c/o Schaffer, Suess & Boyd Realtors
P. O. Box 667, Lodi
Mr. John Teresi

PWCONSTR/TXTA.01V

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OCT 24 1991
CITY OF LODI

DILLON & MURPHY
CONSULTING CIVIL ENGINEERS

1820 W Kettleman tone, Suite E, Lodi, California 95242
P O Box 2180, Lodi, California 95241
(209) 334-6613 • Fax (209) 334-0723

September 30, 1992

Mrs Alice Reimche
City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

Dear Alice:

On behalf of Mr. John Teresi, I wish to appear at a formal City Council meeting and discuss the increased development impact mitigation fees for APN 049-040-61. This is a five acre vacant parcel located at the southwest corner of Victor Road and Guild Avenue in the Teresi Industrial Park.

I would appreciate being placed on the earliest possible City Council agenda. Thank you.

Sincerely,



Cecil Dillon

CD:db

cc: Mr. John Teresi